



Los Angeles County Department of Regional Planning

Planning for the Challenges Ahead



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July 23, 2019

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, CA 90012

Dear Supervisors:

**HEARING ON PERCENT FOR ART IN PRIVATE DEVELOPMENT ORDINANCE
PROJECT NO. 2017-000213-(1-5)
ADVANCE PLANNING CASE NO. RPPL2017008325
(ALL SUPERVISORIAL DISTRICTS) (3-VOTES)**

SUBJECT

This action is to amend Title 22 (Planning and Zoning) of the Los Angeles County Code to establish policies and guidelines for the Percent for Art in Private Development Program that will apply to development projects in the unincorporated areas of Los Angeles County.

IT IS RECOMMENDED THAT THE BOARD AFTER THE PUBLIC HEARING,

1. Find that the adoption of the Percent for Art in Private Development Ordinance (Ordinance) is categorically exempt from California Environmental Quality Act (CEQA) pursuant to Sections 15061(b)(3) and 15183 of the CEQA Guidelines;
2. Indicate its intent to approve and adopt an ordinance to establish a Percent for Art in Private Development Program throughout unincorporated Los Angeles County; and
3. Instruct County Counsel to prepare the final ordinance amending Title 22 for this project and submit to the Board of Supervisors (Board) for its consideration.

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PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

On March 14, 2017, the Board directed the Chief Executive Office (CEO) and the Los Angeles County Arts Commission, now Department of Arts and Culture, (Arts and Culture) to work with the Department of Public Works (DPW), the Department of Regional Planning (DRP), and County Counsel to draft an ordinance as an amendment to Title 22 of the County Code for private development to contribute one percent of the building valuation of their projects for civic art.

The proposed Ordinance will establish criteria for certain private development projects to provide a civic art project or pay into a fund to support civic art programs, and establish criteria for civic art. Furthermore, the Ordinance establishes procedures for Arts and Culture to review and approve civic art plans for development projects and to administer the fund established for in-lieu fees collected to support the County's civic art programs.

Los Angeles County is a global leader in all forms of visual and performing arts, and is a creative capital where creative industries including visual and cultural arts are major contributors to the local economy by providing jobs, creating exports, and contributing to the quality of life for the residents. A vibrant and healthy community includes civic arts amenities that are accessible throughout the County, especially in unincorporated and underserved areas where there are limited resources for these amenities. The art and cultural services provided by the proposed Ordinance will create additional public access to the arts, contribute toward realizing cultural equity and inclusion, and create opportunities for artists in underserved communities in the unincorporated areas of the County.

The guiding principles of the Ordinance is to achieve high quality artwork and art experiences, to be innovative, facilitate art that is site-specific and encourage community participation and civic engagement; to transform people, places and communities.

Current Regulations

The County has already established a Civic Art Policy, adopted by the Board in December 2004 and enacted in 2006, which includes a requirement of one percent of the building valuation on County-funded public building projects to fund civic art programs Countywide. However, there is currently no funding source through private development to provide civic arts in the unincorporated communities.

At least 36 municipalities within Los Angeles County have enacted both civic art policies and percent-for-art ordinances where private developers are required to provide artwork or cultural services on site or pay-in-lieu fees to be used toward providing the civic art benefit within that municipality. The County is the only local jurisdiction that has a Civic Art Policy but no percent-for-art requirement for private development.

Proposed Ordinance

The Ordinance proposes the following:

1. Definitions: Defines 13 new terms in Title 22 relating to civic art;
2. Project Applicability:
 - a. Applies to residential, mixed-use, commercial and industrial projects – new construction with a building valuation of at least \$750,000 and repair of existing buildings with cumulative building valuation of at least \$750,000;
 - b. Exempt certain commercial and industrial projects, certain nonprofit projects, affordable housing projects, residential projects of four dwelling units or fewer, performing arts or museum spaces; and certain renovations from this requirement such as required seismic safety or American with Disabilities Act renovations or due to a fire or natural disaster;
3. Administration: Authorize Arts and Culture to administer the Percent for Art in Private Development Program, including reviewing applications and/or civic art plans, working with developers to develop project-specific civic art programs, collecting in-lieu fees and expending the collected fees specifically for civic art; and working with the DPW to provide a valuation of the project, prior to the building permit being issued;
4. Allocate one percent of the building valuation or design and construction costs to go toward providing the civic art on site or as an in-lieu fee to Arts and Culture to fund civic art; and
5. Require that civic art comply with all zoning requirements in Title 22.

Civic Art Requirement

The Ordinance provides two avenues in which a developer of a private development project that meets the valuation threshold may choose to comply with the Percent for Art requirement:

1. *Provide Civic Art.* Include a publicly accessible civic artwork valued at one percent of the building valuation, either on site or in the vicinity of the site. The civic art may be comprised of, but not limited to:
 - a. Newly commissioned original work of art,
 - b. New cultural facility;
 - c. Conservation or restoration of existing artwork, historic or architectural landmark, or cultural facility within a five-mile radius.
 - d. Artistic and cultural services – such as theatrical performances, arts education, or festivals – within a five-mile radius; or

2. *In-Lieu Fee.* Pay an in-lieu fee to the County Private Development Art Fund that is valued at one percent of the building valuation. If the developer chooses to pay an in-lieu fee into the County Private Development Art Fund to satisfy the Ordinance requirement, the developer is to contribute one percent of the total building valuation of the entire development project.

One hundred percent of the in-lieu fees will be used solely for civic art projects exclusively for the acquisition, commissioning, installation, improvement, maintenance and insurance of civic art on County property; the restoration, conservation, or preservation of existing County-owned civic art; the provision of civic art in any of the four types of programs described in the civic art requirement, above; or any similar arts or cultural services as approved by Arts and Culture.

Civic Art Standards

If the developer chooses to provide a civic art installation on-site or in the vicinity of the project site, the civic art must meet the following standards:

1. The civic art is to be privately owned and maintained by all future owners or occupants of the development, through a covenant or other written provision depending on the type of civic art chosen;
2. The civic art must be openly and freely accessible by the general public for at least eight hours a day, five days a week;
3. The civic art must comply with the County Public Art Policy;
4. The civic art must satisfy the artistic and cultural needs of the development and the community where the development is located; and
5. The civic art must be original artwork; not reproductions, mass-produced or of standard design, and must not contain commercial messages.

The following cannot be considered as part of civic art or factor into the one percent valuation threshold:

1. The costs involved in maintaining the civic art;
2. Services or utilities required to operate or maintain the civic art;
3. Super graphics, signage, or coloring code;
4. Reproductions of original artwork (with the exception of media arts);
5. Building architecture or ornamentation, except if specially commissioned by an artist, however, considerations will be made for restoration of architectural landmarks; and

6. Landscape architecture and gardening, except if specially commissioned by an artist.

Implementation of Strategic Plan Goals

This action supports County Strategic Plan Goal No. II (Foster Vibrant and Resilient Communities), Strategy II.2.2 (Expand Access to Recreational and Cultural Opportunities) as civic art provided by private developers will increase public access to civic art in the communities throughout the County. This program also gives opportunities for partnerships between local artists and developers to improve the quality of development projects and to foster a "sense of place" and a source of pride for these projects within the communities.

The County Civic Art Policy, adopted in 2006 by the Board, states that "artistic and cultural resources are key to the overall quality of life of a community" and art contributes to "fostering a positive community identity," and the proposed Ordinance aligns with that Policy's goals.

FISCAL IMPACT/FINANCING

A historical look back at eligible permitting data between 2012 and 2017 shows that one percent of all permitting revenues total approximately \$16.1 million/\$2.6 million annual average (Attachment I). The revenue collected from the proposed Ordinance will be used in the development of civic art or are collected as an in-lieu fee. The in-lieu fees collected in the Private Development Art Fund will vary depending on developer participation. Estimates for participation in the Private Development Art Fund (in-lieu fees) are estimated to range from a low of 10% participation resulting in approximately \$268,000 in fees collected annually to a high of 60% participation, resulting in \$1.6 million fees collected annually.

Upon adoption of the Ordinance, preliminary implementation of the program will be performed by current Civic Art staff. CEO will work with the Arts and Culture to determine workload impact and if additional staffing is required for the administration of the program as part of the County's process.

Furthermore, Arts and Culture will work with CEO and the Auditor Controller to establish a new interest bearing Special Revenue Fund for FY 2019-20 and budget funds appropriately. The Private Development Art Fund will be a dedicated account to be managed by Arts and Culture. A developer that elects to pay an in-lieu fee will pay into the account and all funds collected in that account will be distributed for civic art projects. Civic art projects using money from the Private Development Art Fund will belong to the County and will be managed and maintained by Arts and Culture. Expenditures made from the Private Development Art Fund are subject to approval by the Board, and must

be used in accordance with the County Civic Art Policy. Arts and Culture will report annually on the use of the Private Development Art Fund to the Board.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

The proposed Ordinance was created as directed by a motion carried by the Board on March 14, 2017. On August 1, 2018, the Regional Planning Commission (RPC) held a duly-noticed public hearing to consider the proposed Ordinance. Multiple letters and testimonies were submitted to the RPC. The RPC continued the hearing to November 28, 2018, and then again to April 24, 2019, directing staff to conduct additional research and outreach through roundtables to address concerns raised at the hearings, and to bring back revised language. On April 24, 2019, RPC closed the hearing and adopted a resolution recommending that the Board adopt the proposed amendments to Title 22 of the County Code.

A public hearing before the Board is required pursuant to Section 22.16.200 of the existing Los Angeles County Code and Section 65856 of the State Government Code. Required notice has been given pursuant to the procedures and requirements set forth in Section 22.60.174 of the County Code.

ENVIRONMENTAL DOCUMENTATION

The proposed Ordinance is categorically exempt from CEQA pursuant to CEQA Guidelines, Section 15061(b)(3), because it can be seen with certainty that there is no possibility that the Ordinance will have a significant effect on the environment and therefore not subject to CEQA. The Ordinance is also exempt pursuant to Section 15183 (Projects Consistent with a General Plan, Community Plan, or Zoning), as the Ordinance is consistent with the policies of the County General Plan to include art in community planning.

IMPACT ON CURRENT SERVICES (OR PROJECTS)

Department of Art and Culture

The Ordinance will require the development and implementation of the program, outreach and consultation to private developers, oversight of developer led projects, oversight of in lieu fees collected and Civic Art Project management from which those fees are collected, reporting and communications, and service and assistance to communities. The Ordinance will allow for the provision of increased arts and cultural services and amenities, particularly in unincorporated and often underserved communities across the County, thereby supporting County Strategic Plan goals and the purpose of Arts and Culture.

Department of Regional Planning

The proposed Ordinance will have very minimal impacts to current services within DRP, as application intake procedures are already established, and will not require extensive staff time. DRP staff only needs to inform applicants at case intake that their development projects may potentially be subject to the Ordinance, and refer them to Arts and Culture for an initial consultation to see if the development project qualifies to be subject to the Ordinance. In certain cases, when the developer elects to develop a civic art plan, DRP staff may check whether the proposed civic art installation or facility depicted on the site plan for the development project complies with all development standards, including setbacks and parking.

Department of Public Works

The proposed Ordinance will have minimal impacts to current services within DPW, as plan check and permit application procedures are already established. Building and Safety staff in DPW will need to inform applicants at application submittal that their projects are subject to the Ordinance and refer them to Art and Culture or collect in-lieu fees. In cases when the developer is approved by Arts and Culture to implement a civic art plan, DPW will check whether the proposed civic art work complies with building codes and issue permits. Plan check and inspection services for the proposed civic art work will be funded by the existing fees in Title 26 of the Los Angeles County Code.

Should you have any questions, please contact Grace Ramirez-Gaston, Director of Civic Arts, Arts and Culture, via email at gramirezgaston@arts.lacounty.gov or (213) 205-5865.

For questions pertaining to DRP, you may contact Bruce Durbin, Supervising Regional Planner, Ordinance Studies Section, via e-mail at bdurbin@planning.lacounty.gov or (213) 974-6432.

Respectfully submitted,



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AJB:GRG:BD:ems

Attachment

c: Executive Office, Board of Supervisors
Arts and Culture
Chief Executive Office
County Counsel
Public Works

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Historical Residential and Commercial Development Permitting Data by Supervisorial District												
Year	1st District		2nd District		3rd District		4th District		5th District		Total	
	Amount	# of Permits	Amount	# of Permits	Amount	# of Permits	Amount	# of Permits	Amount	# of Permits	Amount	# of Permits
2017	\$ 678,148.50	8	\$ 92,000.00	11	\$ 301,638.00	4	\$ 1,282,864.91	17	\$ 844,557.88	20	\$ 3,199,209.29	60
2016	\$ 490,180.00	8	\$ 99,417.90	11	\$ 50,000.00	2	\$ 127,268.10	12	\$ 581,076.25	24	\$ 1,347,942.25	57
2015	\$ 39,300.00	8	\$ 517,374.00	12	\$ 1,036,030.00	1	\$ 622,086.80	23	\$ 191,064.00	16	\$ 2,405,854.80	60
2014	\$ 116,500.00	6	\$ 124,368.40	10	\$ 22,450.00	5	\$ 278,750.00	11	\$ 4,277,198.00	29	\$ 4,819,266.40	61
2013	\$ 172,540.00	6	\$ 598,985.30	10	\$ 36,230.00	3	\$ 596,079.68	8	\$ 862,155.00	9	\$ 2,265,989.98	36
2012	\$ 54,529.20	3	\$ 394,674.60	6	\$ -	0	\$ 365,503.50	10	\$ 1,281,100.00	28	\$ 2,095,807.30	47
Total	\$ 1,551,197.70	39	\$ 1,826,820.20	60	\$ 1,446,348.00	15	\$ 3,272,552.99	81	\$ 8,037,151.13	126	\$ 16,134,070.02	321

Estimated Annual Percent for Art in Private Development Funding by Supervisorial District					
District	1st District	2nd District	3rd District	4th District	5th District
Annual Average	\$ 258,532.95	\$ 304,470.03	\$ 241,058.00	\$ 545,425.50	\$ 1,339,525.19
					\$ 2,689,012

Estimated Annual In Lieu Contributions by Supervisorial District					
District	1st District	2nd District	3rd District	4th District	5th District
Low Estimate (10%)	\$ 25,853.30	\$ 30,447.00	\$ 24,105.80	\$ 54,542.55	\$ 133,952.52
High Estimate (60%)	\$ 155,119.77	\$ 182,682.02	\$ 144,634.80	\$ 327,255.30	\$ 803,715.11
					\$ 1,613,407

The Ordinance provides two avenues in which a developer of a private development project may choose to comply with the Percent for Art requirement: Provide civic art or pay an in-lieu fee to the County Private Development Art Fund. The chart below estimates the annual in-lieu contributions by Supervisorial District.